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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

SMASH TECHNOLOGY, LLC, a Nevada
limited liability company; and MICHAEL
ALEXANDER, an individual;

Plaintiffs,

v.

SMASH SOLUTIONS, LLC, a Delaware
limited liability company; JERRY “J.J.”
ULRICH, an individual; SMASH
INNOVATIONS, LLC, a Wyoming limited
liability company, and FERACODE, LLC, a
Utah limited liability company;

Defendants.

**JOINDER IN MOTION FOR
SUMMARY JUDGMENT AND FOR
SANCTIONS**

Case No. 2:19-cv-00105-TC

Judge Tina Campbell

Feracode, LLC (“Feracode”), by and through counsel, hereby joins the “Motion for Summary Judgment and for Sanctions” (“The Motion”) which was filed as docket entry 101 by Smash Solutions, LLC, Smash Innovations, LLC, and Jerry J. Ulrich. Feracode adopts the factual statements, exhibits, and legal arguments contained in sections I, II, and III of The Motion as they relate to all claims made by Plaintiffs against Feracode (causes of action 1, 9, 11, 12, 13, and 14 of Plaintiffs’ First Amended Complaint).

Specifically, Plaintiffs have failed to comply with the Court's order, and the Federal Rules of Civil Procedure, that require designation of experts. They have not designated any experts in support of their claims, including experts in support of their alleged damages. Plaintiffs have acknowledged that their damages claims require expert testimony and represented that their damages calculations would be provided after "special or expert testimony." (Doc. 90 at 24-25.) Plaintiffs have not provided calculations of their alleged damages or made final designations of experts or produced expert reports. This failure has prejudiced Feracode in that Plaintiffs bear the burden of proof and Feracode cannot prepare an adequate defense without knowing the proof Plaintiffs plan to offer at trial.

By Plaintiffs' own admission, expert testimony is required to prove the damages they allege in this action. They have failed to properly designate expert witnesses or produce expert reports. As a result, the Court should preclude Plaintiffs from calling expert witnesses and therefore grant summary judgment dismissing Plaintiffs' claims against Feracode.

DATED this 26th day of February, 2021.

GOEBEL ANDERSON PC

/s/ Eric K. Jenkins

Heidi G. Goebel

Eric K. Jenkins

Attorneys for Defendant Feracode, LLC

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2020, the foregoing **JOINDER IN MOTION FOR SUMMARY JUDGMENT AND FOR SANCTIONS** was electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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